

Minutes of the Special and Regular Meeting of December 12, 2006

One Twin Pines Lane, Belmont, California

**SPECIAL MEETINGS**

**CLOSED SESSION – 6:30 P.M.**

- A. Conference with Labor Negotiator, Terry Belanger, pursuant to Government Code Section No. 54957.6: BPOA
- B. Conference with Legal Counsel – Anticipated Litigation, pursuant to Government Code Section 54956.9(b)(3)(A): One Case

Attended by Councilmembers Feierbach, Warden, Dickenson, Lieberman, Mathewson, Interim City Manager Belanger, City Attorney Zafferano, Interim Human Resources Director Sam, Negotiator Fran Buchanan. Councilmember Warden and City Clerk Cook were absent.

**ADJOURNMENT** at this time, being 7:20 P.M.

**Terri Cook**  
**City Clerk**

This meeting not tape recorded or videotaped.

**REGULAR MEETING**

**CALL TO ORDER 7:30 P.M.**

**ROLL CALL**

COUNCILMEMBERS PRESENT: Lieberman, Dickenson, Warden, Mathewson, Feierbach

COUNCILMEMBEERS ABSENT: None

Staff Present: Interim City Manager Belanger, City Attorney Zafferano, Community Development Director de Melo, Police Chief Mattei, Public Works Director Davis, Finance Director Fil, Interim Human Resources Director Sam, Interim Deputy City Clerk Tompkins.

## **PLEDGE OF ALLEGIANCE**

Led by Interim Deputy City Clerk Tompkins.

## **REPORT FROM CLOSED SESSION**

City Attorney Zafferano stated that a five-year contract with the Belmont Police Officers Association (BPOA) was approved by the City Council on a vote of 4-0-1 (Warden absent from Closed Session). He noted there was no reportable action on the second Closed Session (Item B).

## **SPECIAL PRESENTATIONS**

### **Swearing In of Police Officer Darin Fitzgerald and Police Dispatcher Jennifer Dahlin**

Police Captain Ed Wood introduced the two newest members of the Police Department. Police Chief Mattei administered the oath of office.

**RECESS** at this time, being 7:30 P.M., to consider the Belmont Fire Protection District Agenda

**RECONVENE: 8:30 P.M.**

## **PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Ralph Stark**, Belmont resident, commented regarding the cost to homeowners of repairing lateral sewer lines in the City's right-of-way, and stated this cost should be borne by the City.

City Councilmembers requested a followup report from Public Works Director Davis at a future Council meeting regarding this topic.

**Tony Villanueva**, HIP Housing, thanked the City of Belmont for its past support and provided 2007 calendars containing winning artwork done by students in San Mateo County on the topic of what "home" means to them.

## **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Councilmember Warden thanked Interim City Manager Belanger for his four months of service.

Councilmember Mathewson expressed Seasons Greetings to the public.

Councilmember Lieberman reported on Belmont AYSO's (soccer) successful season.

Councilmember Dickenson noted the recent article in the San Francisco Examiner regarding the City's reduction in building permit costs for the installation of photovoltaic solar panels. He thanked Community Development Director de Melo and Building Official Nolfi for their assistance in streamlining this permit process.

Mayor Feierbach reported that Notre Dame de Namur University's 20<sup>th</sup> annual production of "Scrooge" was sold out, and she stated that the new production was excellent.

#### **AGENDA AMENDMENTS**

Councilmember Dickenson requested the removal of item 4-A (Update on Automated Red Light Photo Enforcement Project) from the Consent Calendar for separate consideration.

#### **CONSENT CALENDAR**

**Acceptance of** Written Communications: 1) PG&E's Notification of Application Filing for Recovery of Catastrophic Event Costs (CEMA) in Electric rates, dated November 17, 2006

**Approval of** Resolution 9830 Authorizing Acceptance of Program Materials in the Amount of \$3,000.00 from the Portland, Oregon Police Department, for the Belmont Police Department G.R.E.A.T Program

**Approval of** Resolution 9831 Accepting Work, Approving As-Built Plans, and Authorization to Issue a Notice of Substantial Completion for the 27-Inch Dairy Lane Sanitary Sewer Line Rehabilitation, City Contract Number 474

**Approval of** Resolution 9832 Approving the Submittal of a Report in Compliance with Government Code Section 53411 for the Community Facilities District 2000-1 (Library Project)

**Approval of** Resolution 9833 of the City Council of the City of Belmont Approving an Amendment to the Compensation and Benefits Program for Unrepresented Management Employees

**ACTION:** On a motion by Councilmember Mathewson, seconded by Councilmember Warden, the Consent Calendar was unanimously approved, as amended, by a roll call vote.

## **ITEM REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION**

### **Update on Automated Red Light Photo Enforcement Project**

Police Chief Mattei noted that after additional review of the previously-selected vendor (Nestor), it was recommended that the City discontinue working with this company, and begin working with a different vendor.

In response to Mayor Feierbach, Police Chief Mattei clarified that the second vendor, Redflex, had recently made some modifications to its equipment, reducing the visible impact.

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, Update on Automated Red Light Photo Enforcement Project was unanimously approved by a roll call vote.

## **HEARINGS**

### **Public Hearing To Consider an Ordinance Amending Belmont Zoning Ordinance Section 4.2.10.E Regarding Administrative Floor Area Exceptions**

Community Development Director de Melo outlined the Planning Commission review and recommendations regarding this proposed amendment to the Zoning Ordinance. He noted that the Commission considered three circumstances under which an administrative floor area exception may be granted: 1) a 100 square foot addition, 2) a 450 square foot garage for homes not having a garage, or to bring an existing substandard garage into compliance, and 3) a 350 square-foot interior addition. He commented that during his seven-year tenure with the City of Belmont, there has never been an application for a 100 square-foot addition; therefore, the Commission did not see the value of including provisions for this type of project. He noted that the Commission strengthened the language in the findings to be made for the other two types of projects this ordinance affects, which have been incorporated into the final ordinance.

Community Development Director de Melo stated that in order for the ordinance to be approved, the Council needs to make a finding that the proposed amendment meets the goals and objectives of the

Zoning Plan and General Plan. Both the Commission and staff are recommending that this finding can be met.

In response to Councilmember Lieberman, Community Development Director de Melo clarified that some interior-only projects could disrupt a tree root system which has grown under the foundation or structure, and recommended maintaining the language regarding protected trees in the amendment. Councilmember Dickenson cited an example of a project where this occurred.

In response to Councilmember Mathewson, Community Development Director de Melo stated that setting the size of the garage space for this type of administrative project at 450 square feet will include the full exterior footprint for garages.

Mayor Feierbach opened the Public Hearing.

**Kenn Parsons**, Planning Commission Chair, cited an example of a home he remodeled in another city in which a tree's root system was present underneath the foundation. He clarified the discussion at the Planning Commission regarding this topic. He noted that should a protected tree's root system be affected by a proposed project, approval should not be given administratively.

Councilmember Lieberman suggested adding language regarding the measurement of garage space. City Attorney Zafferano recommended maintaining consistency with regard to how square footage is measured. Community Development Director de Melo clarified that the current definition of "floor area, gross" includes finished and unfinished floor surfaces measured from exterior walls.

Discussion ensued. Council concurred to leave the language at 450 square feet in order to ensure that a two-car garage can be approved administratively.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Mathewson, and unanimously approved by a roll call vote to introduce by title an ordinance Amending Belmont Zoning Ordinance Section 4.2.10.e Regarding Administrative Floor Area Exceptions, waive further reading, and set second reading and adoption for January 9, 2007.

## **OLD BUSINESS**

### **Matter of Solid Waste Rates and Services: Alternatives**

Interim City Manager Belanger stated that the City Council approved a 25.6 percent rate increase in June of 2006, which became effective August 1, 2006. He clarified that this increase was intended to cover the remaining four years of the franchise agreement with Allied Waste. He provided details regarding the breakdown of the rate and service areas provided. He noted that the raise was designed to cover service costs required under the franchise agreement with Allied Waste. Additional services not previously covered by trash rates include street sweeping and vehicle impact fees. He noted that the City Council could opt to revise the rate increase, make adjustments in subsequent years, or spread the increase over four years. He outlined details regarding the dollar impact of various reductions to the rate by removing associated services from the rate structure.

In response to Mayor Feierbach, City Attorney Zafferano reviewed provisions of Proposition 218. He noted that following a recent Court action, there have been various legal opinions as to whether or not municipalities which raised rates prior to the Court action should still hold a protest hearing. Some cities are doing so, some are not. However, should Council chose to lower the rate at this time, and later wish to raise them again, Proposition 218 provisions would apply, and a protest hearing would be required. He outlined the process for such a hearing.

Councilmember Warden stated that if a protest were successful under Proposition 218, costs outlined in the franchise agreement would still need to be paid, and would likely have to come from the General Fund.

In response to Councilmember Warden, Interim City Manager Belanger stated that since the explanatory letter was sent in early December, staff has received nine calls and four emails in response. He noted that Allied Waste had not received any communication.

Mayor Feierbach noted that one way to cut costs would be to reduce the garbage can size. She stated that families that recycle do not need a large can. She acknowledged that people were upset after receipt of the first billing following the raise, but that was because no explanation was provided.

Councilmember Dickenson noted that he voted against the rate increase. He recommended using the rebate money to offset the additional costs, which would show a good-faith effort to the residents.

Mayor Feierbach stated she would otherwise concur, but thought the rebate money may need to be used for other things.

Councilmember Mathewson stated he does not wish to get involved in a Proposition 218 protest hearing, and recommended leaving the rate as it stands.

Councilmember Lieberman stated that once he explained the reasons for the large one-time rate increase, people seemed to be satisfied.

Councilmember Warden stated he could support using the rebate money to provide a refund.

Finance Director Fil clarified that the rebate will be forthcoming in installments over several years. He noted that refuse waste issues consume a great deal of staff time, and resources should be devoted so that the money is managed well and administered in a professional manner with regard to future rate structures and contract issues. The balance of the refund could be held for the implementation of future waste programs.

Finance Director Fil clarified that most cities do not allocate city staff time for refuse issues and rely on their representatives at South Bayside Waste Management Authority (SBWMA) to address needs. Belmont is on the forefront by the implementation of a special fund for waste activities.

Mayor Feierbach stated that SBWMA is planning improvements to its recycling and other facilities, and the costs will likely have to be borne by the member cities. Belmont would have to find a way to fund its share. She also noted that if more people reduce their trash can size, the amount of fees received will be reduced.

Councilmember Warden stated that the franchise fee should cover operating costs. He pointed out that over \$750,000 in fees comes back to the City through associated fees. It is not fair to the rate payers that the City would hold the rebate money for some unknown future program when rates were just raised over 25 percent. He does not support a reduction in the trash rates in because of the Proposition 218 issue.

Councilmember Lieberman noted that the franchise agreement provides for cost recovery. When the 25 percent raise was approved, the understanding was there would be no additional raises for the duration of the contract. Should costs increase, the special rebate fund could be utilized to cover those costs.

Mayor Feierbach recommended that Directors Dickenson and Warden meet with staff to assist in developing options regarding fees and the use of the rebate money.

**ACTION:** On a motion by Director Warden, seconded by Director Dickenson, and unanimously approved by a roll call vote to continue this item (to a date uncertain), at which time options for franchise fees and future use of the rebate monies would be considered.

## **NEW BUSINESS**

### **Resolution Approving Memorandum of Understanding between the City of Belmont and Belmont Police Officers Association**

**Jim Christman**, on behalf of Belmont Police Officers Association, thanked the City Council for endorsing the new Memorandum of Understanding, and pledged the BPOA's continued high level of service to the community.

Mayor Feierbach thanked Officer Christman and the BPOA for their cooperation in the negotiations process.

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Dickenson, Resolution 9834 Approving Memorandum of Understanding between the City of Belmont and Belmont Police Officers Association was unanimously approved by a roll call vote.

**RECESS: 9:27 P.M.**

**RECONVENE: 9:35 P.M.**

## **COMMISSION, COMMITTEE UPDATES, AND STAFF ITEMS**



### **Consideration of Council Intergovernmental Assignments**

Discussion ensued and assignments were made, including for new committees. The following assignments were made by specific action.

#### **Belmont-San Carlos Fire Board**

Mayor Feierbach and Councilmember Warden expressed an interest in stepping down from this board.

Councilmembers Lieberman, Dickenson, and Mathewson expressed interest in serving.

**ACTION:** On a motion by Councilmember Mathewson, seconded by Councilmember Lieberman, and unanimously approved by a show of hands for Councilmember Lieberman to serve as a member of the Belmont-San Carlos Fire Board.

**ACTION:** On a motion by Councilmember Warden, seconded by Mayor Feierbach, and unanimously approved by a roll call vote for Councilmember Mathewson to serve as a member of the Belmont-San Carlos Fire Board.

Councilmember Lieberman stated that Councilmember Dickenson would have been a good representative for the Fire Board as well.

**ACTION:** On a motion by Councilmember Mathewson, seconded by Councilmember Warden, and unanimously approved by a show of hands to appoint Robert Blake to an additional four-year term as representative to the San Mateo County Mosquito Abatement District.

### **COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS**

#### **Update Regarding Status of Ongoing Municipal Code Revision Project**

City Attorney Zaffeerano stated that he is generally on schedule with the ongoing project of revising the Municipal Code, even with the addition of new items. He noted that he has spent approximately 20-25 hours of time on the pending smoking ordinance, and anticipates spending two to three times that

amount in the next few weeks. He would like concurrence of Council that he continue spending time on this issue, and noted it would be at least February before this matter would come back to Council for further consideration.

Council concurred to direct the City Attorney to continue working on this issue.

#### **PUBLIC COMMENTS AND ANNOUNCEMENTS**

Fire Chief Fry thanked now-former Fire Board Members Feierbach and Warden for their efforts on behalf of South County Fire, now the Belmont-San Carlos Fire Department.

#### **MATTERS OF COUNCIL INTEREST/CLARIFICATION**

##### **Consideration to widen the driveway at the Belmont library and to more clearly mark the lanes for traffic flow (Warden) (held over from 11/14/06)**

Councilmember Warden stated that there is still confusion of drivers exiting the driveway at the Library.

Public Works Director Davis responded that a double-yellow line could be added at the driveway exit to better delineate the lanes. He also stated that staff had previously recommended an additional 20 feet of red curb on Alameda de las Pulgas to improve visibility for cars exiting the driveway, which is still a viable option.

Council concurred to direct staff to add double-yellow lines at the driveway exit. There was no direction regarding the additional red curb.

##### **Consideration to Direct City Attorney to seek Fair Political Practices Commission (FPPC) advisory regarding future slope/density ordinances (Warden) (held over from 11/14/06)**

Councilmember Warden stated that no definite ruling regarding conflict of interest had been requested of the FPPC regarding the slope/density issue. At the time, Council members took the prudent step to recuse themselves from discussion on the matter.

City Attorney Zafferano stated that the FPPC is undertaking steps to clarify and create an exception for small cities regarding public exceptions. If created, it could apply to Belmont, so the entire Council could participate on certain issues. There may not be a need to request a formal ruling from the FPPC. He will advise Council of the outcome of their discussions.

**Consideration of city policy to purchase hybrid vehicles and phasing out of diesel vehicles (Feierbach)  
(held over from 11/14/06)**

Mayor Feierbach expressed concern regarding the carcinogenic effect of diesel engines, and noted a number of City vehicles are diesel.

Public Works Director Davis stated that diesel technology is improving, and newer engines may soon become cleaner burning than gasoline. Fuel efficiency is also improving. He noted that there is a capacity and low mileage issue with vehicles using compressed natural gas (CNG). There are no hybrids available for many of the large trucks used in the City's fleet.

Councilmember Warden noted that the County Library Joint Powers Authority recently adopted a policy that hybrids be purchased for replacement fleet.

Councilmember Lieberman commented that his personal hybrid vehicle gets worse gas mileage on the hills than some gasoline engines.

Public Works Director Davis concurred that green technology is ideal, but higher costs offset the benefits.

Discussion ensued, and Council directed staff to continue to monitor this matter, and to review the entire City fleet for a future policy.

Public Works Director Davis stated that Council could review this issue during budget time.

**Consideration of RFP for new audit firm (Mathewson)**

Councilmember Mathewson stated that the current contract was extended last year for one year only, and this may be the time to begin the process for next year.

**John Violet**, City Treasurer, recommended that this matter be referred to the newly-organized Audit Committee. Council concurred.

**ADJOURNMENT** at this time, being 10:10 P.M.

**Terri Cook**  
**Belmont City Clerk**

Meeting Tape Recorded and Videotaped  
Audio Recording 651